

POLICY ISSUE (Notation Vote)

December 31, 2003

SECY-03-0227

FOR: The Commissioners

FROM: William D. Travers
Executive Director for Operations /RA/

SUBJECT: REVIEW STANDARD RS-002, "PROCESSING APPLICATIONS FOR EARLY
SITE PERMITS"

PURPOSE:

The purpose of this paper is to obtain Commission approval of the staff's plans to issue final Review Standard RS-002, "Processing Applications for Early Site Permits." The Commission had requested, in a Staff Requirements Memorandum (SRM) dated May 7, 2003, for SECY-02-0199, "Denial of Petition for Rulemaking to Use Information from Prior Licensing Actions as Resolved Information for Early Site Permit and Combined License Applications," that the staff submit RS-002 to the Commission for approval.

BACKGROUND:

By letter dated July 18, 2001, the Nuclear Energy Institute (NEI) submitted Petition for Rulemaking (PRM)-52-1 seeking to amend Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52. The petitioner requested that the NRC regulations governing early site permit (ESP) and combined license (COL) applications be amended to include special provisions with respect to applicants seeking ESPs or COLs at sites with existing licensed facilities or for which construction permits had been issued.

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In SECY-02-0199 dated November 8, 2002, the staff proposed to the Commission that PRM-52-1 be denied. In its May 7, 2003, SRM, the Commission approved the staff's proposal to deny the petition for rulemaking with some changes to the staff's proposed *Federal Register* Notice. The SRM went on to state the following:

To ensure that future license applicants and the public understand the staff's review process of programs and siting information, in a separate document (e.g., Review Standard or Standard Review Plan), the staff should explain its review process, including specific criteria that the staff will use to make its determination as to whether new siting information or a program modification is necessary. The Commission is aware that the staff expects to issue a final review standard for early site permit application reviews, RS-002, Processing Applications for Early Site Permits, by the end of 2003. The staff should submit this document to the Commission for approval.

This paper responds to the Commission's request.

DISCUSSION:

As part of its planning for future licensing activities for new reactors, the staff determined that it was appropriate to enhance existing review guidance to address ESPs. While NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," contains useful information for this purpose, most of that document was developed before the existence of 10 CFR Part 52, and does not, in general, address ESPs. On the other hand, NUREG-1555, "Standard Review Plans for Environmental Reviews for Nuclear Power Plants," specifically addresses ESPs. The staff's objective in developing RS-002 was to use NUREG-0800 as a starting point, to the extent feasible and appropriate, for the development of guidance for the review of site safety and emergency planning information. RS-002 updates the organizational roles and responsibilities shown in NUREG-0800, eliminates guidance not applicable to ESPs, and provides updated technical guidance and staff positions where appropriate. In addition, Attachment 3 to RS-002 provides clarifications to the review guidance in NUREG-1555.

On December 26, 2002, the staff issued draft RS-002 for public comment and for interim use by the staff and potential applicants. Two additional sections of RS-002 were subsequently developed and were issued for public comment and interim use on April 13, 2003.

The public comment periods for all sections of RS-002 have now expired. The staff responded via letters dated June 23, 2003, to comments on the initial issuance of the document received from NEI, Exelon Generation LLC, and Entergy Nuclear, Inc. The staff responded to comments on the two additional sections of draft RS-002 received from NEI, Ms. Sandra Lindberg (representative of an organization entitled "No New Nukes"), and the Nuclear Information and Resource Service via letters dated August 4, September 5, and September 12, 2003, respectively. The staff has incorporated its responses to public comments on RS-002.

Because review of an ESP is a first-of-a-kind activity, the staff believes it likely that issues will arise during reviews of the initial ESP applications that will warrant additional review guidance. The staff is developing a process for interim staff guidance, similar to that implemented for the license renewal program. The process will include review of emergent issues to identify the

need for interim guidance, informing the Commission of emergent issues, opportunity for stakeholder comment, and communication of the approved interim guidance to stakeholders. As appropriate, the interim staff guidance will be incorporated into a future revision of RS-002.

A new section, Section 4.5, of RS-002 provides guidance for the use of previously filed information. For example, information from a previous licensing action for which the NRC has granted a construction permit or operating license could be of use to an applicant seeking an ESP at or near the site of the previous action. The guidance emphasizes the need to explain how the existing information satisfies an ESP requirement and that applicants must make specific citations to information deemed applicable. General criteria address aspects such as the similarity of the intended use of the proposed new plant location to the intended use previously supported by existing information. Another criterion addresses the need to consider variations in site characteristics at the proposed new plant location versus characteristics of the site of an existing facility, because some characteristics can change significantly over a limited distance. A criterion also calls for considering any new, applicable, and significant information that may have become available since the time the existing information was developed.

Additional criteria for the staff's technical evaluation of existing information are provided for each part of the staff's review of an ESP application. For the site safety review, the guidance emphasizes the need for review of quality assurance measures supporting the existing information. For review of existing emergency planning information, the primary emphasis is on the adequacy of the existing information to support emergency planning for a site that would contain an additional reactor or reactors. Another area to be addressed would be the adequacy of existing arrangements with offsite agencies, given the possibility of additional reactors on an existing site. For the environmental review, the guidance notes that the NRC would use the existing scoping information to "identify and eliminate from detailed study those issues which are peripheral or are not significant or which have been covered by prior environmental review" and to identify other environmental assessments and impact statements which are "related to but are not part of the scope of the statement under consideration." The guidance also refers to "tiering," which allows Federal agencies to rely on previous environmental assessments (EAs) and environmental impact statements (EISs) to aid in the presentation of issues, eliminate repetition, or reduce the size of an EIS.

Finally, the guidance states that the staff's evaluation of previously filed information should be part of the individual technical evaluation sections of the safety evaluation report (SER), that each reference in the SER to previously filed information should be clear and specific, and that the staff's evaluation should document why the information is relevant for the specific use. The staff's evaluation findings must support the staff's conclusions as to whether the applicable regulations have been met.

CONCLUSIONS:

Staff review and concurrence on RS-002 are complete. As directed in the SRM for SECY-02-0199, the staff has provided guidance in RS-002 for the review of existing information in an ESP application for a site collocated with an existing nuclear reactor. Issuing the final review standard will inform future license applicants and the public of the staff's review process for existing program and site information.

RECOMMENDATION:

The staff recommends that the Commission approve issuance of RS-002.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection.

/RA/

William D. Travers
Executive Director
for Operations

Attachment: RS-002, "Processing Applications for Early Site Permits"
(ML032340334)

RECOMMENDATION:

The staff recommends that the Commission approve issuance of RS-002.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection.

/RA/

William D. Travers
Executive Director
for Operations

Attachment: RS-002, "Processing Applications for Early Site Permits"

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML032380167.wpd

Accession # ML032340334-Pkg. *See previous concurrence

OFC	RNRP/PM		RNRP/SC*		RLEP/D*		DIPM/DD*		DE/DD*	
NAME	MScott		LDudes		PKuo		BBoger		RBarrett	
DATE			9/22/03		10/2/03		9/26/03		10/3/03	
OFC	DSSA/DD*		NSIR/DNS/D*		RNRP/D*		DRIP:DD*		OGC*	
NAME	SBlack		GTracy		JLyons		DMatthews		JMoore	
DATE	10/1/03		9/26/03		10/16/03		10/17/03		11/25/03	
OFC	NRR/AD		NRR/OD		DEDR		EDO			
NAME	JCraig		JDyer		SCollins		WTravers			
DATE	12/22/03		12/22/03		12/31/03		12/31/03			

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